



Michael H. Pryor  
+1 202 776 2339  
mpryor@cooley.com

Via ECFS

March 24, 2017

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: **Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25;  
Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143**

Dear Ms. Dortch:

On March 22, the undersigned, together with Jennifer Prime of Cox Enterprises ("Cox") and on behalf of Cox Communications, Inc. met with Eric Ralph, Justin Faulb, Pamela Arluk, William Kehoe, Irina Asoskov, Shane Taylor, and Gregory Capobianco of the Wireline Competition Bureau regarding the above referenced proceedings.

We reiterated Cox's positions taken consistently throughout these proceedings that there is no reasonable basis to impose regulation on new entrants, such as Cox and other cable providers, that lack market power in the Business Data Services ("BDS") market.<sup>1</sup> We explained that Ethernet services are sufficiently competitive so as to preclude the need for any rate regulation. For TDM services, Cox stressed that any price regulation of ILEC TDM BDS should be carefully targeted to any areas lacking present or potential price constraining competition.

In response to questions regarding the recently submitted proposal by AT&T about how to regulate ILEC TDM services,<sup>2</sup> we explained that it addressed several of Cox's previously expressed concerns regarding the contours of any competitive market test (CMT). Specifically, we noted that any CMT should not adopt an overly granular geographic market, require the presence of multiple competitive providers, or impose resource-intensive ongoing data collections. Cox noted that the geographic markets previously under consideration, such as census blocks or census tracts, are far too granular and do not reflect how Cox enters a market. Cox market entry typically follows the contours of its franchise areas.

We explained Cox does not have the facilities to ubiquitously offer BDS services. We discussed the services offered by Cox and how they differ from those offered by ILECs. We explained that Cox offers fiber-based BDS, limited Ethernet over HFC ("EoHFC") services, and best efforts services. We summarized Cox's extensive comments describing its HFC network and the constraints of using that network to provide business services. Cox has explained that its best efforts services and the limited Ethernet over HFC ("EoHFC") services that it provides are not BDS as has been defined by the

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<sup>1</sup> See *generally*, Comments of Cox Communications, Inc., WC Docket Nos. 16-143 & 05-25, filed June 29, 2016 (Cox Comments); Reply Comments of Cox Communications, Inc., WC Docket Nos. 16-143 & 05-25, filed August 9, 2016 (Cox Reply Comments).

<sup>2</sup> Letter from Caroline Van Wie, AVP-Federal Regulatory, AT&T Services Inc. to Marlene Dortch, Secretary, FCC, WC Docket Nos. 16-143, 15-247, 05-25, RM-10593 (filed March 13, 2017).



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Commission.<sup>3</sup> Specifically, Cox's EoHFC offers limited symmetric speeds (10-20 Mbps) and does not provide guaranteed performance metrics, which are the hallmarks of BDS. Given these limitations, Cox has previously explained that EoHFC is not a viable option for cell site backhaul.<sup>4</sup>

Cox also reiterated that it continues aggressively to seek opportunities to provide BDS wherever the extension of its fiber network to locations is cost-justified. Cox's previous comments provided detailed information regarding its continued investment in fiber facilities and equipment since the 2013 data collection, the increased number of locations served since that time, and its average growth rate during that period and its projection of continued growth in the absence of incentive-reducing regulation.<sup>5</sup> Cox also noted that it had previously provided a detailed explanation of the process that it undertakes to determine whether to extend facilities to new locations, including a list of the factors that Cox considers.<sup>6</sup>

Finally, Cox reiterated that the record does not support a blanket finding that all BDS is offered on a common carriage basis.

Please feel free to contact the undersigned if you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael H. Pryor".

Michael H. Pryor

MHP:rkk

cc (via email): Eric Ralph  
Justin Faulb  
Pamela Arluk  
William Kehoe  
Irina Asoskov  
Shane Taylor  
Gregory Capobianco

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<sup>3</sup> See, Cox Comments at 9-11, 14-19; Declaration of Jeremy Bye and Larry Steelmen, attached as Exhibit 1, to the Cox Comments at ¶¶ 8, 10-13 (describing key differences between Cox fiber-based services and its EoHFC services) (Bye/Steelmen Declaration); Declaration of Jeffrey Finkelstein, attached as Exhibit 3 to the Cox Comments, *passim* (Finkelstein Declaration); Cox Reply Comments at 5-8.

<sup>4</sup> See Finkelstein Declaration at ¶ 20.

<sup>5</sup> See Cox Comments at 7-8; Bye/Steelmen Declaration at ¶ 14.

<sup>6</sup> See Declaration of Ken Shelton, attached as Exhibit 2 to the Cox Comments at ¶¶ 5-8 (Shelton Declaration).